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SUBJECT: UNIONS LOOK AT THE PERUVIAN LABOR SCENE

Classified By: Charge James Nealon, for Reasons 1.4 (c,d)

1. (SBU) Summary: Many political analysts and labor officials agree on the fundamental labor issues facing the government of Peru as implementation of the U.S. and Peru Trade Promotion Agreement (PTPA) draws closer. The most pressing is reducing the size of the informal economy and providing more Peruvian workers with formal labor protections. A second is untangling the confusing knot of regulations, supreme decrees, and statutes that comprise Peruvian labor legislation. Representatives of organized labor hope that entry into force of the PTPA will spur progress on both fronts, while business leaders believe more flexible labor rules will enable businesses to take full advantage of the PTPA. Skeptical observers emphasize that business and union leaders have adopted a conflictive model of labor negotiation that has failed to forge the kind of compromises needed for reform. For these analysts, the PTPA may fuel economic growth but will not easily change deeply ingrained habits that have hindered an expansion and improvement in labor protections. End Summary.

Peru's Millstone: The Informal Economy  
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2. (C) In separate meetings with poloffs, labor and government officials gave conflicting estimates of the number of Peruvians working in the informal economy. Mario Huaman, secretary general of Peru's largest labor confederation --

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the pro-Communist General Confederation of Peruvian Workers (CGTP) -- said 75 per cent of Peruvians workers, eight million workers in an 11 million-member labor force, lack formal employment. Sylvia Caceres, the Ministry of Labor (MOL) representative on the National Labor Board, said that 40 percent of the workforce has formal employment. Julio Bazan, head of the United Confederation of Workers (CUT), said the MOL's own statistics show 80 per cent of small businesses -- which employ 90 per cent of Peruvians -- operate outside the formal economy, meaning 70 percent of workers are in the informal economy.

3. (C) Oscar Muro of the AFL-CIO's Solidarity Center in Lima says the different estimates result from different interpretations of Law 28015, passed in 2007, which allows

small businesses -- firms with less than 10 employees -- to pay only a portion of the taxes normally required for social security. The MOL considers these businesses part of the formal economy; unions do not. Whatever its exact size, the informal economy, says Muro, is so big that it depresses wages, robs government of revenue, and creates a culture of lawlessness that lures workers and businessmen into evading labor laws. Luis Davis, the International Labor Organization's representative in Peru, told poloffs the best definition of formal employment in Peru is those jobs offering health benefits; by that measure, only 19 per cent of Peruvians work in the formal sector. Davis says such a low level of participation, while not unique in the Andes, means the government is losing its ability to regulate the labor market and may face, at some point, an insoluble problem.

#### The General Labor Law to the Rescue?

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¶4. (C) Minister of Labor Mario Pasco told Emboffs that the government is taking a three-pronged approach to the problem:

- generating economic growth to increase formal employment;
- easing tax requirements for small businesses to allow them to participate in the legal system; and
- pushing for passage of the General Labor Law (GLL).

APRA Congressmen Luis Negreiros, one of the principal authors and promoters of the GLL, told poloff that new legislation is fundamental to the process. In order to bring more workers into the system, he says ironically, "we must first create a system." According to Negreiros, the GLL clarifies the mass of confusing and sometimes contradictory regulations governing labor rights and provides a single source of reference to arbitrate disputes. At the same time, the law potentially strengthens worker protections by reducing the ways businesses can subcontract work and by increasing benefits for discharged employees.

¶5. (C) In general, businesses oppose the GLL, arguing that it would increase labor rigidity and hinder economic growth. Business associations cite the World Bank's annual Doing Business Report, which ranks Peru close to the bottom (159th) in the world in terms of labor rigidity. Many employers criticize Peru's laws for imposing inflexible work schedules and for making both hiring and firing workers extremely difficult. At the same time, according to Sebastian Otero, an analyst with the American Chamber of Commerce, Peruvian businessmen need clearer labor laws. Citing regulations governing the hiring of temporary workers as a case in point, Otero said no one in Peru is sure whether the practice is limited to a specific period of time, to a percentage of workers at a firm, or to the type of work performed. Otero noted that such confusion reflects the challenge of trying to rebuild a system of labor protections that was dismantled during the Fujimori years.

¶6. (C) Although Otero believes the GLL is needed, he doubts it will be passed. This is partly because both labor and business are unwilling to compromise on key issues, such as the rights of fired workers, despite more than seven years of negotiations. Caceres confirmed to poloffs that the Minister of Labor is planning to appoint a National Commission to suggest more changes to the GLL, because the Minister doubts the commission will ever be able to reach agreement on the law as it currently stands. The delay is unsettling to Negreiros who fears congressional interest in reforming existing labor legislation is waning as implementation of the PTPA approaches.

#### The PTPA to the Rescue?

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¶7. (C) Union leaders say the real problem in Peru is not a lack of legislation but the failure of the government to enforce existing labor laws. In separate interviews with poloffs, the heads of Peru's four major labor confederations

said the PTPA offers the best hope of forcing the GOP to put teeth into enforcement and to end practices such as the illegal use of contract workers that have swelled the ranks of informal workers. Each confederation has formed a committee to monitor the GOP's compliance with what they understand as the PTPA's provisions. Huaman, for example, says the CGTP can document 3448 cases in the past year when CGTP organizers were fired for engaging in union activity. Huaman says he will encourage the Embassy to press for GOP enforcement of labor protections. Other unions have similar intentions. (Note: In discussions with contacts in organized labor, we often underscore the utility of their taking their case directly to Peruvian government and elected authorities. End Note.)

#### No Silver Bullet

18. (C) Some observers of the Peruvian labor scene doubt any legislation -- whether the PTPA or the GLL -- will bring harmony and satisfaction to a sector marked by endemic disputes. Walter Alban, a political analyst at Catholic University in Lima, told poloffs that both sides are locked into romantic visions of the past: unions hope to regain the absolute labor stability of the 70's while businesses pine for the no-holds-barred capitalism of the 90's. Neither side, Alban says, is looking for middle ground to bridge these conflicting positions. For the ILO's Davis, labor and business have both erred by focusing on writing new legislation, which applies only to the formal sector and leaves the bulk of (informal) workers shut out from the benefits reform might bring. Guillermo Miranda, head of the MOL's Office of International Affairs, told poloff that many labor and business representatives are adept at complaining -- particularly about the MOL's shortcomings -- but have been unable to move beyond a deep-seated desire to protect existing rights in order to begin a dialogue that could produce genuine reform.

#### Comment: Growth Must Generate Benefits

19. (C) The Garcia administration's vigorous commitment to open markets and free trade has helped produce record-setting growth -- GDP grew by 8.8 per cent in 2007. Some of this success has "trickled down" in the form of more jobs and increased purchasing power, including in certain sectors of the middle and lower classes. But it has also sharpened political tensions by raising expectations and fueling frustration -- especially of workers in the vast informal sector who see and hear about the boom but have not (yet) felt its benefits directly. Even critics of the PTPA in organized labor expect growth to continue and hope the PTPA will be an engine that draws more workers into the formal economy and provides leverage for a fuller enforcement of fundamental labor protections. But for many Peruvians, the success of the PTPA and the meaningfulness of continued or even expanded economic growth will be measured not in macro-economic charts or improved systems but rather in palpable improvements in everyday lives: better jobs, houses, schools, health and, ultimately, hopes for the future.

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